THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc. Transfer Application No:04 of 2004

Smt. Monika Verma, W/o Devi Lal Verma, D/o Sri S.D. Singh, R/o 383 Vikas Colony, Ranipur Mor, Haridwar.

---Applicant.

Versus

1. State of Uttaranchal through District Judge, Tehri Garhwal.
2. Devi lal Verma S/o Sri Shyam Lal, R/o Dobata Colony, Post Dobata, Tehri Garhwal.

---Respondent

Ms. Jyotsna,Advocate,learned counsel for the Applicant.
Sri A.K. Yashodas, Advocate, learned Counsel for the respondent.

Dated: April 04, 2005
PC:
(Hon'ble B.S. Verma, J.)

This application has been filed by the applicant-wife under Section 24 of the C.P.C. for transfer of Matrimonial Case No. 36 of 2003, Devi Lal Verma Vs. Smt. Monika Verma, under Section 9 of the Hindu Marriage Act, pending in the Court of District Judge Tehri Garhwal to the Court of Family Court Hardwar.

Brief facts of the case are that, according to the applicant, she was married to opposite party no.2 on 5.3.2002 according to Hindu Rites and customs at Rishikesh, Dehradun and huge amount was spent in the marriage ceremony. The respondent started demanding dowry of Rs. 5 lacs even after the marriage but the applicant refused to fulfill his illegal demand which caused annoyance to the Opposite Party. The O.P. then started harassing and treating her with cruelty on that account. The applicant was compelled to leave the company of the husband and when the opposite party threatened her to kill on 25.6.2002, she started living with her parents along with her infant daughter. Ultimately, the applicant initiated proceeding under Section 125 of the Code of Criminal Procedure for maintenance against the husband in the Court of Judge Family Court Hardwar, which was registered as Case No. 57 of 2003. On the other hand, the husband filed an application

under Section 9 of the Hindu Marriage Act for restitution of conjugal rights in the Court of District Judge, Tehri Garhwal, which was registered as Case No. 36 of 2003. Since the applicant-wife has apprehension to her life from the husband in contesting the case in Tehri Garhwal, she has come before this Court for transfer of the case filed by the husband under Section 9 of the Hindu Marriage Act from the Court of the District Judge Tehri Garhwal to the Court of Judge, Family Court Hardwar.

Notice was issued to the opposite party husband and vide order dated 19-03-2005, both the parties were directed to appear before this Court in person fixing 4.4.2005. Today, the opposite party-husband appeared personally along with his counsel, but the applicant-wife has not come, therefore, efforts for reconciliation could not take place.

However, the O.P. Devi Lal Verma made a statement before the Court that he has no objection to the transfer of his case under Section 9 of the Hindu Marriage Act from the Court of District Judge Tehri Garhwal to the Court of Judge, Family Court Hardwar and he is ready to contest the said case at Hardwar. In view of the statement made by the husband-O.P.. I am inclined to accept the prayer made by the applicant-wife for transfer of the case under Section 9 of the Hindu Marriage Act from Tehri Garhwal to the the Court of Judge, Family Court, Hardwar. The applicant deserves to be allowed as prayed for.

Accordingly, the application is allowed. Case No. 36 of 2003, Devi Lal Verma Vs. Smt. Monika Verma, under Section 9 of the Hindu Marriage Act, pending before the District Judge Tehri Garhwal is recalled and is transferred to the Court of Judge, Family Court, Hardwar, for disposal in accordance with law. No order as to costs.

(B.S. Verma, J.)

A.R.